

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

MICHAEL ANDERSON,

Plaintiff,

v.

CIVIL ACTION NO. 3:05-0689

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

**FINDINGS AND RECOMMENDATION**

This is an action, filed under the provisions of 42 U.S.C. §§ 405(g) and 1383(c)(3), seeking review of a decision the Commissioner of Social Security denying plaintiff's applications for disability insurance benefits and supplemental security income. As a consequence of a sentence six remand to complete the administrative record, this case was most recently reopened on the motion of the Commissioner; however, it does not appear that plaintiff has been involved in pursuing his applications for benefits since late 2004. The matter is presently pending before the Court on defendant's motion to dismiss. By Order entered June 30, 2009, plaintiff was given fifteen days from the date of entry of the order to file a response to defendant's motion. Although the time for filing a response to the motion has long since passed, plaintiff has failed to respond in any manner.

**RECOMMENDATION**

In light of foregoing, it is **RESPECTFULLY RECOMMENDED** that defendant's motion to dismiss be granted and that this action be dismissed.

Plaintiff and defendant are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provision of Rule 72(b), Fed.R.Civ.P., the parties may, within thirteen days of the date of filing these Findings and Recommendation, serve and file written objections with the Clerk of this Court, identifying the portions of the Findings and Recommendation to which objection is made and the basis for such objection. The judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. § 636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

The Clerk is directed to file this Findings and Recommendation and mail a copy of the same to all counsel of record.

ENTER: August 3, 2009

  
MAURICE G. TAYLOR, JR.  
UNITED STATES MAGISTRATE JUDGE